

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Defendants

1. Robert BARRAZA

2. Isaac ESPINOZA

3. Dominick SMITH

4. Cuauhtlahtouac HERNANDEZ

Defendant(s)

) Magistrate Case No.

) '08 MJ 1083

) COMPLAINT FOR VIOLATION OF:

) Title 8 U.S.C., Sec. 1324 (a)(1)(A)(ii)

) Transportation of Illegal

) Aliens

FILED
2008 APR -8 AM 10:22

The undersigned complainant, being duly sworn, states:

On or about April 6, 2008, within the Southern District of California, defendants **Robert BARRAZA**, **Isaac ESPINOZA**, **Dominick SMITH**, and **Cuauhtlahtouac HERNANDEZ** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Clemente MORALES-Chaparro**, **Roberto AGUILAR-Perez**, and **Rogelio OPLEA-Mendoza** had come to, entered and remained in the United States in violation of law, did transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT

James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 8th DAY OF APRIL 2008



Ruben B. Brooks
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:

1. **Robert BARRAZA**
2. **Isaac ESPINOZA**
3. **Cuauhtlahtouac HERNANDEZ**
4. **Dominick SMITH**

PROBABLE CAUSE STATEMENT

Furthermore, the complainant states that **Clemente MORALES-Chaparro, Roberto AGUILAR-Perez,** and **Rogelio OPLEA-Mendoza** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On April 6, 2008, Supervisory Border Patrol Agent J. Dinise was performing anti smuggling duties near Alpine, California. This area is located approximately seven miles west and 12 miles north of the Tecate, California Port of Entry. Agent Dinise was operating an unmarked Agency vehicle and was in plainclothes.

At approximately 8:50 p.m., Agent Dinise observed two vehicles traveling eastbound on Interstate 8. The first vehicle was a blue Ford Escort; The second vehicle was a green Dodge Ram 2500. Agent Dinise observed the two vehicles traveling in close proximity to one another, making the same lane changes, and it appeared as though the Dodge Ram was riding in tandem with the Ford Escort.

It is common for these organizations to use multiple vehicles; one used as a scout vehicle and one as a load vehicle. The scout vehicle will often drive the intended route with the intention of identifying any Border Patrol vehicles in the area that may impede their attempts to pick up their illicit cargo. Agent Dinise and Border Patrol Agent Joseph A. Remenar continued surveillance on the two vehicles as they approached the Willows Road Exit on Interstate 8. At the Willows Road Exit, both vehicles exited the Interstate towards the Viejas Casino. The location of the casino is ideal for smugglers attempting to load their contraband in Eastern San Diego County, as they can blend in with legitimate customers while finalizing preparations for their illicit activities. This location also provides quick access to Interstate 8 on both the eastbound and westbound lanes.

The two vehicles approached the main entrance of the Viejas Casino and parked together. Agent Dinise observed two occupants exit from each vehicle. While outside, the occupants spoke amongst themselves for approximately ten minutes before re-entering their vehicles. The vehicles then exited the casino. Agent Blanchard continued surveillance of the Dodge and soon observed the Ford driving just ahead of it. The Dodge positioned itself behind the Ford again, but soon passed the Ford as it continued eastbound. Agent Blanchard passed the Ford and continued surveillance on the Dodge as Agents Dinise and Remenar continued surveillance on the Ford. Both vehicles continued driving eastbound in close proximity until the Dodge began accelerating approximately two miles west of the Buckman Springs Road Exit of Interstate 8. The Dodge accelerated to such a speed that Agent Blanchard was unable to maintain visual contact, and was soon unable to locate the Dodge. As Agent Remenar continued following the Ford. The Ford continued eastbound on Interstate 8 until it exited at Mountain Springs Road. As Agent Remenar continued eastbound, Agent Dinise exited at Mountain Springs and was able to observe the Ford immediately turning back westbound on Interstate 8. Alien smuggling vehicles will often utilize these exits and change their direction of travel in order to scout the route that pertains to their illicit cargo. The Ford continued westbound on Interstate 8 until exiting at the Jacumba Exit and pulling into the Valero Gas Station located just off of the Interstate. Both occupants exited the vehicle and entered the convenience store located inside. Agent Dinise was able to make a positive identification of the passenger of the Ford as defendant **Isaac ESPINOZA**.

CONTINUATION OF COMPLAINT:

1. Robert BARRAZA
2. Isaac ESPINOZA
3. Cuauhtlahtouac HERNANDEZ
4. Dominick SMITH

Approximately five minutes later, the driver of the Ford and ESPINOZA exited the convenience store, got back into their vehicle, and re-entered the westbound lanes of Interstate 8. Agents Dinise and Blanchard continued to conduct surveillance on the vehicle as it traveled westbound. Agents Dinise and Blanchard continued surveillance on the Ford as it continued westbound on Interstate 8 until exiting at the Crestwood Road Exit. The Ford turned into the parking lot of the Golden Acorn Casino and parked outside of the convenience store, near the gas pumps. Agents Dinise and Blanchard approached the vehicle and identified themselves to the occupants as United States Border Patrol Agents. Agents Dinise and Blanchard questioned both subjects as to their citizenship status. Both subjects claimed to be citizens and nationals of the United States. The driver of the vehicle was identified as defendant **Cuauhtlahtouac HERNANDEZ**. The passenger of the vehicle was confirmed as being Isaac ESPINOZA.

As Agent Remenar drove westbound on Interstate 8 towards the Jacumba Exit, he noticed a pickup truck on the shoulder of the Interstate. As Agent Remenar approached the pickup, the pickup re-entered the westbound lanes of the Interstate. A few hundred yards later, the pickup then pulled onto the shoulder of the Interstate again. Agent Remenar soon noticed that the pickup on the shoulder of the Interstate was the same Dodge Ram 2500 that had been in tandem with the Ford Escort. This area of the Interstate is a well documented alien smuggling location. This section of Interstate 8 is less than two miles from the United States/Mexico International Boundary, making it ideal for groups of undocumented aliens to quickly cross the border and load into a vehicle before being apprehended by the Border Patrol. Additionally, Border Patrol Agents assigned to the Boulevard, California Border Patrol Station had been tracking a group of undocumented aliens that were headed towards the same area that the Dodge had been seen. Agent Remenar believed that the Dodge had just loaded a group of undocumented aliens and relayed his observations to Border Patrol Agent F. Rivera.

Agent Rivera was operating a marked Border Patrol pursuit sedan with fully functional emergency lights and audible siren. After passing the Dodge on the Interstate, Agent Remenar was unable to maintain visual contact with the vehicle. Agent Remenar exited the westbound lanes of the Interstate and re-entered onto the eastbound lanes with the intention of returning to the location that the Dodge had been observed on the shoulder. After passing that location, Agent Remenar notified Agent Rivera that the Dodge was no longer on the shoulder of the Interstate. Agent Rivera, who had been waiting at the Jacumba Exit, entered onto the westbound lanes of Interstate 8 in an attempt to re-acquire the Dodge. Agent Rivera soon observed the Dodge traveling westbound on Interstate 8 as it passed the McCain Valley Bridge, located approximately 1.5 miles east of the Ribbonwood Road Exit. Agent Rivera requested additional marked units to assist. Border Patrol Agent B. Beaton positioned himself at the top of the exit's off-ramp in the event he would need to deploy a Controlled Tire Deflation Device (CTDD).

Agent Rivera informed Border Patrol Dispatch that he would be attempting a vehicle stop of the Dodge Ram 2500 Pickup, westbound on Interstate 8 approximately one quarter mile from the Kitchen Creek Road Exit. Agent Rivera initiated his fully functional emergency lights and audible siren in attempt to stop the Dodge. The Dodge failed to yield to Agent Rivera's marked agency vehicle and attempted to flee, exiting Interstate 8 at the Kitchen Creek Road Exit. Agent Beaton deployed the CTDD at the top of the off-ramp, which successfully made contact with all four tires of the Dodge. After making contact with the CTDD, the Dodge continued to flee and drive erratically, accelerating down the off ramp and driving through the stop sign located at the bottom of the off-ramp without coming to a stop. The Dodge then immediately re-entered the

CONTINUATION OF COMPLAINT:

1. Robert **BARRAZA**
2. Isaac **ESPINOZA**
3. Cuauhtlahtouac **HERNANDEZ**
4. Dominick **SMITH**

westbound lanes of Interstate 8 and cut across the dirt median separating the eastbound and westbound lanes of the Interstate.

The Dodge then turned westbound in the eastbound lanes of Interstate 8, traveling against oncoming traffic and posing an imminent danger to both the Dodge's occupants and the legitimate traffic traveling eastbound. The Dodge continued driving against traffic for approximately 100 yards until it drove onto the shoulder of the eastbound lanes and lost control of the vehicle. The Dodge was immobilized as it became high centered on top of the rugged terrain south of the Interstate.

All of the Dodge's occupants exited the vehicle and attempted to abscond on foot. Five individuals were apprehended next to the Dodge. Another 12 individuals were apprehended approximately 50 yards south of the Dodge attempting to flee. Agent Remenar recognized one of the subjects as the same individual he had witnessed as a passenger in the Dodge as it had pulled into the parking lot of the Viejas Casino. The subject, later identified as defendant **Robert BARRAZA**, was placed under arrest by Agent Remenar for suspicion of violation of Alien Smuggling, and separated from the group. **BARRAZA** was questioned as to his citizenship status to which he claimed being a United States Citizen. The additional 16 subjects apprehended were questioned as to their citizenship status. All 16 freely admitted to being citizens and nationals of Mexico. When asked to present any immigration documents that would allow them to enter into the United States legally, all 16 subjects claimed that they were not in possession of any such documents. All 16 subjects were then placed under arrest for being present in the United States not in possession of any valid immigration documents.

Border Patrol Agent C. Sadberry, a Border Patrol Canine Handler, also responded to the scene of the bailout. Agent Sadberry and his canine partner began tracking an individual who had fled from the scene. Agent Sadberry soon came upon an individual attempting to conceal himself in thick brush. Agent Sadberry identified himself as a United States Border Patrol Agent and questioned the subject as to his citizenship. The subject, later identified as defendant **Dominick SMITH**, replied to Agent Sadberry in the English Language that he was a United States Citizen. Agent Sadberry observed that the subject's dress and demeanor were inconsistent with an undocumented alien who had recently crossed the United States/Mexico International Boundary. Agent Sadberry then placed **SMITH** under arrest for suspicion of violation of Title Alien Smuggling.

All 20 of the subjects apprehended in association with this event were transported to the El Cajon, California Border Patrol Station for further processing.

DEFENDANT STATEMENT: (Robert BARRAZA)

Defendant Robert **BARRAZA** was advised of his Miranda Rights. He stated that he understood his rights, and agreed to provide a sworn statement without the presence of an attorney.

BARRAZA stated that on the evening of Sunday, April 6, 2008, he decided to go to a casino with his friend, defendant Isaac **ESPINOZA**. **BARRAZA** went to another location, where he met with his friend defendant Dominick **SMITH**. **BARRAZA** is unsure whether this location was in National City or Chula Vista but he stated that it was a location south of San Diego towards the Mexican Border. At this location, **BARRAZA** got in a truck with Dominick. Dominick was driving the truck.

CONTINUATION OF COMPLAINT:

1. Robert BARRAZA
2. Isaac ESPINOZA
3. Cuauhtlahtouac HERNANDEZ
4. Dominick SMITH

BARRAZA and Dominick met with Isaac and another friend defendant Cuauhtlahtouac HERNANDEZ at the Viejas Casino. When asked regarding the vehicle that Isaac and "Touac" were in, BARRAZA stated "the car that we were following". BARRAZA also stated that it was a Ford and it was "Touac's" car. BARRAZA stated that his intention was to gamble at the casino, but after they met someone decided they were going to go pick up "paisas" instead. BARRAZA explained that "paisas" on this occasion referred to Mexicans illegally in the United States.

BARRAZA stated that Dominick then drove him to another location and told him to get out of the truck and whistle. When BARRAZA whistled, the illegal aliens came down from the bushes towards the truck. Some aliens went into the truck cabin and some went into the bed of the truck. BARRAZA admitted to knowing that the people that they picked up were illegal. BARRAZA stated that he was told by Isaac to go in the truck with Dominick. When asked if he was getting paid, BARRAZA claimed he wasn't. When asked if his friends were doing this for free, BARRAZA stated, "I don't think they would."

DEFENDANT STATEMENT: (Dominick SMITH)

Defendant Dominick SMITH was advised of his Miranda Rights. He stated that he understood his rights, and agreed to provide a sworn statement without the presence of an attorney.

SMITH stated that on the afternoon of Sunday, April 6, 2008, he went to his friend "Rascal's" house. SMITH had planned to go to the casino. SMITH stated that they went to the Viejas Casino and then the Golden Acorn Casino. At some point after that, "Rascal" and SMITH observed a man on the side of the road. SMITH stated that he pulled over and "Rascal" spoke to the man since he knows Spanish. SMITH stated that he does not know Spanish. "Rascal" decided to give the man a ride and, all of a sudden, a lot more people came out from hiding and into the truck.

SMITH stated that he was driving a green Dodge Ram Truck. SMITH borrowed the green Dodge from a friend to go to the casino. SMITH later admitted that he spoke to his friends "Touac" and Isaac at the Viejas Casino. SMITH stated that he just ran into them, but they weren't traveling together. SMITH stated that he missed the exit to the Golden Acorn Casino and ended up turning around at the In-Koh-Pah Exit. They picked up the aliens shortly after getting back on Interstate 8 westbound near Jacumba. SMITH was almost certain that the people were illegal aliens as soon as he saw them. SMITH was aware that transporting undocumented aliens is illegal.

SMITH saw the emergency lights activated on the Border Patrol unit and heard the siren. SMITH stated that he didn't stop because he panicked.

SMITH was presented with a series of 20 Polaroid color photographs, one of each person arrested in this event, randomly numbered 1 through 20. SMITH identified photograph number two as the subject he knows as "Touac". Photograph number two depicts defendant Cuauhtlahtouac HERNANDEZ. SMITH identified photograph number six as Isaac. Photograph number six depicts defendant Isaac ESPINOZA. SMITH identified photograph number ten as his friend Robert, who he had referred to in his statement as "Rascal". Photograph number eighteen depicts defendant Robert BARRAZA.

MATERIAL WITNESSES STATEMENTS:

Material witnesses **Clemente MORALES-Chaparro, Roberto AGUILAR-Perez, and Rogelio OPLEAMendoza** agree in summary that they are citizens and nationals of Mexico illegally present in the United States. They admit to entering the United States illegally. They all stated that they were going to pay between \$1,800.00 to \$2500.00 to be smuggled into the United States.